

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re E.J., A Person Coming  
Under the Juvenile Court Law.

---

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

Eric J. et al.,

Defendants and Appellants.

B290547

Los Angeles County  
Super. Ct. No.  
18CCJP02049A

APPEALS from orders of the Superior Court of Los Angeles County. Kim L. Nguyen, Judge. Affirmed.

Emery El Habiby, under appointment by the Court of Appeal, for Defendant and Appellant Eric J.

Roni Keller, under appointment by the Court of Appeal, for Defendant and Appellant P.J.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Tracey F. Dodds, Principal Deputy County Counsel, for Plaintiff and Respondent.

---

## INTRODUCTION

Father and mother separately appeal from the juvenile court's dispositional orders. Father challenges the court's order limiting his visitation with his son. Mother challenges the court-ordered case plans as inadequate. Finding no abuse of discretion, we affirm the juvenile court's orders.

## BACKGROUND

### 1. *The incident triggering the dependency petition*

Mother and father are the parents of E.J., born in January 2018. They informally shared custody of the child without a family law order. The child first came to the attention of the Los Angeles County Department of Child and Family Services (DCFS) after mother and father were involved in a physical altercation the night of February 13, 2018.

Mother and father had argued over a text message mother sent about father. According to the police report, father yelled at mother to get out of the house and started packing her clothes and throwing her things around the bedroom. Mother became upset and threw the television at the floor. Mother went to take the baby off the bed, but father grabbed mother by her arms and threw her down onto the floor. Father got on top of mother and began punching her in the face. Mother tried to hit father back, but could not because they were struggling.

When police arrived, officers saw mother attempting to drive out of the driveway. She was in her underwear, topless, holding the baby in a carrier on her chest with a blanket over

her. Mother's lips were bloody and swollen. Father was arrested, but no charges were filed.

DCFS social workers interviewed father and mother following the incident. Parents' statements differed from mother's original statements to police. Father denied having hit mother. He said he grabbed mother's arms because he did not know if mother was going to throw the television at him. Father said mother cut her lip when she slipped and fell into the tub after running into the bathroom when father let her go.

Mother also denied that father had hit her. She said she grabbed the television to take with her, but father grabbed her arms, pulled her hair, and pushed her. Mother said she pushed father away from her. Mother denied falling in the bathroom. She said she "always has cut lips" from her braces. Mother denied telling police that father punched her, and she did not know why the police report differed from "what happened."

After the incident, mother and the baby moved in with mother's former legal guardian.

## **2. *Parents' history***

Law enforcement had been called to parents' home on earlier occasions. In May 2017, father called police to request someone escort mother from the residence after she threw water in his face. In September 2017, mother reported father threatened to assault her. On February 3, 2018, after E.J. was born, mother reported father refused to give the baby to her after an argument.

After the February 13, 2018 incident, mother was arrested on March 6, 2018, for domestic violence. As mother tried to take belongings from father's home, mother broke a window when

father tried to close the window from the inside, and mother tried to open it from the outside.

Both parents have a history of juvenile dependency. Mother became a dependent of the juvenile court after she was born with in-utero drug exposure. She was appointed a legal guardian before she turned two. Mother had various mental health diagnoses during her youth. Most significantly, mother was diagnosed with bipolar disorder in 2003 while in a group home. She took medication for the disorder initially, but has not received medication since then.

Father also was exposed to drugs prenatally and grew up in the foster care system. He was diagnosed with ADHD and prescribed Ritalin as a child. He was hospitalized once after he could not calm down following an argument with his foster mother.

### **3. *Dependency petition and hearings***

On March 29, 2018, DCFS filed a dependency petition on behalf of the child under Welfare and Institutions Code<sup>1</sup> section 300, subdivisions (a) and (b)(1). It alleged the described “violent altercations on the part of the child’s father against the child’s mother, and the mother’s failure to protect the child” placed the child at risk of serious harm. DCFS recommended the child be detained from both mother and father.<sup>2</sup>

On April 2, 2018, the court detained the child from father, but found reasonable services available to prevent detention from

---

<sup>1</sup> Statutory references are to the Welfare and Institutions Code.

<sup>2</sup> The juvenile court granted a removal order as to father on March 23, 2018.

mother. The court released the child to mother on the condition she live with her former guardian, she enroll in domestic violence counseling, and a family preservation referral be put in place. The court ordered monitored visits between father and the child three times a week and that father receive referrals for individual counseling and domestic violence classes.

On May 31, 2018, the court held a joint jurisdictional/dispositional hearing. The court sustained the petition under section 300, subdivision (b)(1) as pled and declared the child a dependent of the juvenile court. The court removed the child from father and ordered the child released to the home of mother.

The court continued its order that mother and child live with mother's former legal guardian and family preservation services be put in place. The court also ordered mother to participate in a domestic violence support group for victims, participate in individual counseling, and undergo a psychiatric evaluation. The court ordered monitored visitation for father for a minimum of three times a week, three hours each visit, and gave DCFS discretion to liberalize the visitation. The court also ordered father to participate in a domestic violence course, participate in counseling, and receive family reunification services.

Father and mother separately appealed from the juvenile court's dispositional orders on June 5, 2018 and June 15, 2018, respectively. On April 24, 2019, while this appeal was pending, the juvenile court terminated its jurisdiction, staying that order pending receipt of a juvenile custody order. On May 3, 2019, the court entered a juvenile custody order awarding joint legal custody to parents and physical custody to mother. The order granted unmonitored visitation to father for a minimum of three

times a week for a minimum of three hours per visit “or as agreed to by the parents.” The court then lifted the stay and terminated its jurisdiction.<sup>3</sup>

## DISCUSSION

The only issue father raises on appeal is the propriety of the juvenile court’s dispositional order restricting his visitation with the child to monitored visits, three times a week. He contends the court should have ordered daily, unmonitored visits, including overnight visits. The only issue mother raises on appeal is a challenge to the juvenile court’s case plans. She contends the court should have ordered a psychiatric evaluation for father and conjoint family therapy or co-parenting classes.

### 1. *Standard of review and applicable law*

The juvenile court may make “all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child.” (§ 362, subd. (a).) We thus review a juvenile court’s dispositional orders, including an order setting visitation, for abuse of discretion. (*In re Briana V.* (2015) 236 Cal.App.4th 297, 311 [“ ‘juvenile court has broad discretion to determine what would best serve and protect the child’s interests and to fashion a dispositional order accordingly’ ”]; *In re Brittany C.* (2011) 191 Cal.App.4th 1343, 1356 [court of appeal “will not

---

<sup>3</sup> On May 2, 2019, we asked counsel to update us as to any subsequent developments in the juvenile court. Counsel responded and father’s counsel provided copies of the juvenile court’s recent orders. On our own motion, we take judicial notice of the juvenile court’s April 24 and May 3, 2019 minute orders and its May 3, 2019 juvenile custody order and final judgment.

disturb” order setting visitation unless trial court “made an arbitrary, capricious, or patently absurd determination”].)

“[E]valuating the factual basis for an exercise of discretion is similar to analyzing the sufficiency of the evidence for the ruling. . . . Broad deference must be shown to the trial judge. The reviewing court should interfere only “if [it] find[s] that under all the evidence, viewed most favorably in support of the trial court’s action, no judge could reasonably have made the order that he did. ’ ” ’ ” (*In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1351.) We defer to the juvenile court’s fact and credibility determinations. (*In re R.T.* (2017) 3 Cal.5th 622, 633.)

**2. *The juvenile court did not abuse its discretion when it limited father’s visits***

Father argues the juvenile court abused its discretion when it restricted father to monitored visits three times a week but released the child to mother. He contends he and mother were “‘mutually’ responsible for their domestic violence altercations,” and he posed no greater risk to their baby than mother. He thus contends the court’s order permitting mother unlimited access to their child and restricting him to limited, monitored visits was illogical and an abuse of discretion.

The juvenile custody order provides father with unmonitored visits. His objection to the disposition order’s requirement of monitored visits is thus moot. (*In re N.S.* (2016) 245 Cal.App.4th 53, 60 [critical factor in considering whether a dependency appeal is moot “is whether the appellate court can provide any effective relief if it finds reversible error”].)

As to father’s other contentions, we disagree. The juvenile court concluded reasonable services existed to prevent removal of the baby from mother, whereas none existed to prevent detention

from father. The court released the baby—just over four months old at the time—to mother on the condition she continue to live with her former legal guardian and family preservation services remain in place. As DCFS notes, that mother also may be to blame does not render the court’s visitation order as to father an abuse of discretion. Allowing father daily, unmonitored visits with the child would not reduce any risk to the child while in mother’s custody.

Nevertheless, father argues “reasonable means existed” to protect the child without restricting father’s visits with him during the reunification period. Father does not articulate what those “reasonable means” are, however. At the hearing, he asked the court to order unmonitored and overnight visits, but did not suggest what services or means could be put in place to protect the child if his visits were unrestricted.

The record supports the reasonableness of the court’s order. The court found credible mother’s initial statement to law enforcement—that father pushed her, got on top of her and punched her, and that she left with the child afraid for her safety. The court did not credit mother’s later recantation that father did not punch her. We defer to the juvenile court’s credibility finding and will not reweigh the evidence. The court noted police officers observed mother had a bloody lip and appeared “to be in such a scared and frightened state” that she was trying to drive away, wearing only her underwear, and holding the baby with a blanket. The court also found the incident was not an isolated one, noting the call logs, described above, indicated “increasing escalating volatility” between parents.

We cannot say that no reasonable judge would have limited father’s visits on this record. Given the child was a defenseless

infant, and father had shown himself to be violent in the child's presence, the court's order requiring father's visits be limited (and monitored) was well within its broad discretion to ensure father's visits did not create a risk of harm to the baby. Moreover, the court's order permitted DCFS to liberalize the visitation schedule. Father was granted a *minimum* of three, three-hour visits per week. The court's order thus allowed for greater visitation as father made progress in his case plan. The juvenile custody order contains the same minimum schedule and allows parents to agree to greater visitation.

**3. *Mother's appeal is moot and she has forfeited her objections to the juvenile court's disposition orders***

Mother contends the juvenile court abused its discretion when it did not order father to participate in a psychological evaluation and did not order additional services to preserve the family unit, such as co-parenting classes or conjoint therapy. There is no relief we can provide mother by way of this appeal. (*In re N.S.*, *supra*, 245 Cal.App.4th at p. 60.) With the court's termination of its jurisdiction over the child, there are no further services for the court to order.

Moreover, as DCFS notes, no one asked the juvenile court to order a psychological evaluation of father. Mother also did not ask the court for additional services. She thus has forfeited those issues on appeal. (*In re Anthony Q.* (2016) 5 Cal.App.5th 336, 345 ["the forfeiture doctrine applies in dependency cases and the failure to object to a disposition order on a specific ground generally forfeits a parent's right to pursue that issue on appeal"].)

Mother argues the doctrine of waiver does not apply because DCFS "has the burden to prove jurisdictional and

dispositional findings and orders.” While an appellant may raise an issue for the first time on appeal if claiming a failure of proof, that is not mother’s contention here. (E.g., *In re Brian P.* (2002) 99 Cal.App.4th 616, 622-623, cited by mother [no objection needed to preserve claim social service agency failed to meet its burden of proof on adoptability of child].) DCFS had no burden to prove a psychological evaluation of father was or was not needed because neither it nor mother’s counsel ever requested one.

Mother asserts that she specifically asked DCFS and the juvenile court “to address the issues around the father being ‘crazy,’” and therefore preserved the issue. Mother vaguely referred to father’s mental state during an interview by a social worker. That reference did not amount to a request to the juvenile court to order a psychological evaluation of father. Mother could have raised the issue during the joint jurisdictional/dispositional hearing, but she did not. Similarly, mother never asked the court to order conjoint or co-parenting counseling. Indeed, mother’s only response to the proposed case plan was to object to having to participate in the court-ordered programs.

A “silent parent” may not “argue that the juvenile court erred in not being psychic.” (*In re Lorenzo C.* (1997) 54 Cal.App.4th 1330, 1339 [father who failed to request bonding study waived issue on appeal]; see *In re Anthony P.* (1995) 39 Cal.App.4th 635, 640-642 [failure to request sibling visitation as part of permanent plan waived issue on appeal].) That is exactly what mother asserts here—that the juvenile court abused its discretion for failing to order an evaluation and services she never requested. We thus do not reach the merits of mother’s contentions.

**DISPOSITION**

The juvenile court's orders are affirmed.

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

EGERTON, J.

We concur:

EDMON, P. J.

LAVIN, J.